

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JEYAKUMAR RATHINAM, et al.,

Plaintiffs,

v.

Case No. 3:14-cv-103

Judge Thomas M. Rose

ASHOK SPIRITUAL HEALING CENTER,

Defendant.

**ENTRY AND ORDER GRANTING MOTION TO DISMISS WITHOUT
PREJUDICE (DOC. 41); DISMISSING THE TRUSTEE'S ORIGINAL
COUNTERCLAIM AND CROSS-CLAIM (DOC. 12) AND SUPPLEMENTAL
COUNTERCLAIM AND CROSS-CLAIM (DOC. 31) WITHOUT
PREJUDICE; AND TERMINATING MOTION TO TAKE JUDICIAL
NOTICE AND TO DISMISS INTERVENING DEFENDANT WHITAKER'S
CLAIMS AGAINST DEFENDANT ASHOK SPIRITUAL HEALING
CENTER (DOC. 36) AS MOOT**

This case is before the Court on the Motion To Dismiss Without Prejudice (Doc. 41) filed by Intervening Defendant and Counter/Cross-Claimant Lloyd Whitaker, Trustee of the Estate of Hindu Temple and Community Center of Georgia, Inc. (the "Trustee"). By this motion, the Trustee requested an order dismissing the claims asserted in his Supplemental Counterclaim And Cross-Claim (Doc. 31) without prejudice. (Doc. 41 at 1.) The Supplemental Counterclaim And Cross-Claim (Doc. 31) incorporates by reference all of the averments in the Trustee's original answer, counterclaim and cross-claim (Doc. 12) and asserts two supplemental counterclaims and cross-claims. (Doc. 31 at ¶ 1.) The time to respond to the Trustee's Motion to Dismiss Without Prejudice has expired and no objection has been filed; it is therefore ripe for review.

Also before the Court is the Motion To Take Judicial Notice And To Dismiss Intervening

Defendant Whitaker's Claims Against Defendant Ashok Spiritual Healing Center ("Motion to Dismiss With Prejudice") (Doc. 36), by which Ashok Spiritual Healing Center ("Ashok") moved to dismiss the claims asserted against it in the Trustee's original and Supplemental Counterclaim And Cross-Claim. Ashok filed the Motion to Dismiss With Prejudice (Doc. 36) on May 7, 2015, two weeks before the Trustee filed his Motion to Dismiss Without Prejudice (Doc. 41) on May 21, 2015.

Also on May 21, 2015, the Trustee filed a motion to extend his deadline to respond to Ashok's Motion to Dismiss With Prejudice (Doc. 42) on the grounds that, if the Court were to grant the Trustee's Motion to Dismiss Without Prejudice, Ashok's Motion to Dismiss With Prejudice the claims asserted against it in the Trustee's original and supplemental counterclaim and cross-claims would be moot. (Doc. 42 at 1.) By Notation Order, the Court granted the Trustee's motion for extension of time and extended the Trustee's response date to June 22, 2015 – one week after the deadline to respond to the Trustee's Motion to Dismiss Without Prejudice.

As noted above, no responses or objections to the Trustee's Motion to Dismiss Without Prejudice (Doc. 41) have been filed, and the deadline to respond has expired. The Court therefore GRANTS the Trustee's Motion to Dismiss Without Prejudice (Doc. 41). The Trustee's original Counterclaim and Cross-Claim included with his Answer (Doc. 12) and Supplemental Counterclaim and Cross-Claim (Doc. 31) are hereby DISMISSED without prejudice. The Court also TERMINATES Ashok's Motion to Dismiss With Prejudice (Doc. 36) as moot.

If the Trustee wishes to file any amended counterclaim and/or cross-claim in this action, he is ORDERED to do so by no later than July 3, 2015.

DONE and **ORDERED** in Dayton, Ohio, this Wednesday, June 17, 2015.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE